



The Gates Rubber Company  
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Denver, CO 80209

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## FAX COVER SHEET

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Date:	12/19/2003	Time:	9:04 AM
TO:	Office of Petitions (Francis Hicks)	FAX:	703-872-9306
From:	Jeffrey Thurnau Patent Counsel	Phone:	(303) 744-4743
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Number of pages including cover sheet: 12

DOCKET NO.: 000-009A  
SERIAL NO.: 09/616,746  
FILED: July 14, 2000  
TITLE: LENS

### SPECIAL SUBMISSION HANDLING

**ATTACHMENTS  
INCLUDE:**

PETITION TO WITHDRAW FROM ISSUE  
UNDER 37 CFR 1.313(c)(2) AND RCE UNDER CFR 1.114  
- 3 PAGES

REQUEST FOR CONTINUED EXAMINATION (RCE)  
TRANSMITTAL - 1 PAGE

RCE AMENDMENT - 6 PAGES

IDS COVER SHEET (HARD COPIES OF EACH PATENT  
FOLLOWING BY EXPRESS MAIL) - 1 PAGE

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I hereby certify that this correspondence is being filed by fax to  
703.872.9306 and by Express Mail No. ET208442588US

to Commissioner for Patents, Mail Stop Petitions, Alexandria VA  
22313-1450 on December 19, 2003 for The Gates Corporation

Signature: Simon Z. Heller Date Signed: December 19, 2003

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DEC 19 2003

Docket 000-009A

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

December 19, 2003

In re Application of:

The Gates Corporation,  
a Delaware corporation  
Assignee

Filed: July 14, 2000

Serial No.: 09/616,746

For: LENS

**SPECIAL  
SUBMISSION  
HANDLING**

Petition to Withdraw  
from Issue

Under 37 CFR 1.313(c)(2)

and

RCE

under 37 CFR 1.114

Office of Petitions  
Commissioner for Patents  
Alexandria, VA 22313-1450

Dear Commissioner:

This is a petition to withdraw from issue under 37 CFR 1.313(c)(2) and RCE under 37 CFR 1.114 for application serial number 09/616,746.

Included with the fax copy of this petition is an RCE, amendment and IDS cover sheet. The hard copies of each are following by Express Mail of the same date hereof.

The issue fee for application serial number 09/616,746 was timely paid by fax submission of PTOL-85 dated November 13, 2003.

Applicant hereby requests the Commissioner to grant this petition and to accept this filing based upon the following:

1. Application serial number 09/616,746 was the subject of a petition under 37 CFR 1.47(b) filed by Gates Corporation which was granted by the Office in Paper 5.

2. The Rule 47(b) inventor, Mr. Sevastian, filed a copending application on January 12, 2001, application serial number 09/758,501.

3. Title to the inventions and both patent applications was the subject of recently concluded litigation between the assignee Gates Corporation and the Rule 47(b) inventor, namely, in the Circuit Court for the County of Oakland, Michigan, case number 01-028549-ck, and, Michigan Court of Appeals Second District case number 239263.

4. Application serial number 09/758,501 was the subject of an "Attorney Eyes Only" secrecy agreement and protective order between Gates Corporation and the Rule 47(b) inventor. The undersigned was not authorized to view the file for application serial number 09/758,501 prior to entry of final judgment in favor of Gates Corporation.

5. The litigation was recently concluded and application serial number 09/758,501 was fully assigned by the Rule 47(b) inventor to Gates Corporation, which assignment included a copy of the prosecution file. The prosecution file was delivered by post to the undersigned at the Gates Corporation on December 16, 2003.

6. Upon inspection of the file it was learned by the undersigned that application serial number 09/758,501 was examined and allowed by Examiner Cranson, group art unit 2875.

7. Application serial number 09/758,901 issued as U.S. patent number 6,579,000 B1 on June 17, 2003.

8. The file reveals that the declaration for application serial number 09/758,501 makes reference to copending application serial number 09/616,746.

9. Due to the "Attorney Eyes Only" secrecy agreement in the underlying litigation, the undersigned learned of the serial number and art cited in application serial number 09/758,501 on December 16, 2003, hence it was not possible to earlier inform Examiner Duverne in application serial number 09/616,746 of copending application serial number 09/758,501, or of the art cited in application serial number 09/758,501.

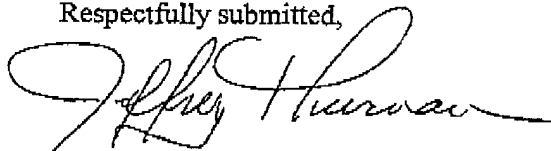
10. It does not appear that the Examiner Duverne considered the art cited in copending application serial number 09/758,501, or, that it was considered with respect to any potential double patenting issues.

11. The attached RCE includes a reference to application serial number 09/758,501 as well as an IDS including the art cited therein.

Gates Corporation requests grant of this petition to withdraw application serial number 09/616,746 from issue and to enter the attached RCE for consideration by the Examiner in the subject case.

Fees applicable to this petition can be deducted from Gates Corporation deposit account number 07-0475.

Respectfully submitted,



Dated: Dec. 19, 2003

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303 744-4743